

November 09, 2021

AO 91 (Rev. 11/11) Criminal Complaint

Nathan Ochsner, Clerk of Court

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States of America

v.

Elena Markham

Case No.

4:21-mj-2378

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 3, 2021 in the county of Victoria in the
Southern District of Texas, the defendant(s) violated:

Code Section

Title 18, U.S.C. 115(a)(1)(B)

Offense Description

Threatens to assault, kidnap, or murder, a United States judge, with intent to impede, intimidate, or interfere with such judge while engaged in the performance of official duties, or with intent to retaliate against such judge on account of the performance of official duties.

This criminal complaint is based on these facts:

see attached affidavit

☐ Continued on the attached sheet.



Complainant's signature

Special Agent Forrest Johnson

Printed name and title

Submitted by reliable electronic means, sworn to,
signature attested telephonically per Fed. R. Crim. P. 4.1.
And probable Cause found:

Date: November 09, 2021

City and state: Houston, Texas



Judge's signature

Peter Bray, U.S. Magistrate Judge

Printed name and title

Affidavit In Support of Criminal Complaint

I, Forrest Johnson, being duly sworn, state as follows:

I. BACKGROUND OF AFFIANT

1. I am a Special Agent with the Federal Bureau of Investigation. I have been so employed since approximately June 2010. I am currently assigned to the Corpus Christi office within the Houston Division.
2. As part of my duties as an FBI Special Agent, I investigate criminal violations related to offenses committed against the laws of the United States including, but not limited to, white collar crimes, violent crimes, and assaults. As a Special Agent I have both led and participated in many large complex investigations. Through my training and experience I have become familiar with many tools used in investigations, including undercover operations, surveillance, and conducting interviews of witnesses, informants, and others with knowledge of the offense.

II. BASIS AND PURPOSE OF AFFIDAVIT

3. This affidavit is submitted for the limited purpose of establishing probable cause to support a criminal complaint charging Elena MARKHAM with violating Title 18, United States Code, Section 115(a)(1)(B), which states, "Whoever threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section, with intent to impede, intimidate, or interfere with such official, judge, or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties, shall be punished as provided in subsection (b)."
4. The statements in this affidavit are based on my personal knowledge, and on information I have received from other law enforcement personnel and from persons with knowledge regarding

relevant facts. Because this affidavit is being submitted for the limited purposes set forth above, I have not included each and every fact known to me concerning this investigation.

III. SUMMARY OF THE INVESTIGATION

5. On or about April 30, 2021, the Victoria office of the Texas Department of Family and Protective Services received a call from an employee at DeTar Hospital North regarding Elena MARKHAM. MARKHAM had given birth to a child the previous day and the hospital staff was concerned as MARKHAM was acting strange and stating strange things. The hospital staff reported that MARKHAM stated she (MARKHAM) had been trafficked as a child and had some of her internal organs stolen. MARKHAM also stated the Child Protective Services were involved in stealing babies.
6. An investigator was assigned from the Texas Department of Family and Protective Services to evaluate the situation and ensure the safety of the newborn. The investigation ultimately led to the removal of the newborn from MARKHAM'S custody. Of note, the investigation discovered that MARKHAM had multiple children removed from her custody by officials in Spokane, Washington, MARKHAM'S hometown. Additionally, your Affiant surmises that MARKHAM had likely traveled to Victoria, Texas to evade the officials in Spokane and prevent them from removing the newborn from her custody.
7. After the removal of the newborn by Texas Department of Family and Protective Services, MARKHAM called an employee of the Texas Department of Family and Protective Services and left a voice message in which she (MARKHAM) threatened to shoot and kill the employee.
8. On or about May 24, 2021, MARKHAM filed a civil lawsuit in federal court in the Southern District of Texas against various individuals including employees for the Texas Department of Family and Protective Services, hospital staff at DeTar Hospital North, and local judges and law enforcement officers from Victoria County. The lawsuit requested the return of MARKHAM's

newborn as well as \$3,805,000 to be paid in damages. The federal, civil lawsuit was assigned to Judge Drew Tipton and Magistrate Judge Julie Hampton.

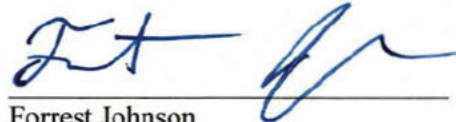
9. On or about June 10, 2021, Judge Hampton recommended that the lawsuit be “dismissed with prejudice as frivolous” stating that “Markham fails to present any specific facts or a logical and coherent set of allegations to support her delusional and incredible claims that DFPS kidnapped her daughter to harvest its blood and organs.”
10. On or about July 8, 2021, MARKHAM filed an objection to Judge Hampton’s Memorandum and Recommendation. In the objection MARKHAM requests the newborn be returned to her and states, “If you are not willing to do so, then I have no other choice but to put all liens on your assist which I am, that is promise, I am not bluffing.”
11. On or about October 11, 2021, Judge Tipton signed an order accepting Judge Hampton’s Memorandum and Recommendation and the lawsuit was dismissed.
12. On or about November 3, 2021, a woman calling herself “Elena” left two, voicemail messages for Judge John Rainey on his office telephone. Judge Rainey’s office telephone is provided by a Cisco VOIP phone system. The two messages were initially reviewed by Judge Rainey’s Case Manager. The Case Manager contacted the U.S. Marshals regarding the messages. The U.S. Marshals advised the Case Manager to forward the messages to an Information Technology employee within the Southern District of Texas Systems Department. The Information Technology employee downloaded the two messages and sent them to the U.S. Marshals who then forwarded them to the FBI. According to the file name of the two messages, the two calls appear to have been made on November 3, 2021 at 1:24 pm and 1:29 pm. The first call is approximately 3 minutes and 46 seconds in length and the second call is approximately 4 minutes and 20 seconds in length.
13. The caller addresses the recipient of the messages as “Judge Rainey” and states that she wants to talk to him about the federal case that has been dropped. In the messages the caller states that she filed the lawsuit in May 2021. The caller also references MARKHAM’S newborn by name.

14. Law enforcement believes the caller to be MARKHAM based on the woman calling herself "Elena", referencing a dismissed lawsuit filed in Victoria in May 2021, referencing her newborn child by name, as well as comparing the voice of the caller to known voice messages left by MARKHAM.
15. In the voice messages, MARKHAM is upset over her lawsuit being dropped. She claims the judges are afraid of dealing with a human sex trafficker and then states, "what about a bullet in your head, maybe that'll work."
16. MARKHAM further states that she is not afraid and will put liens on all the federal judges. MARKHAM states that Judge Rainey is in her "war book".
17. Finally, MARKHAM states that if she sees Judge Rainey in a tunnel, he will be shot by her team.

IV. CONCLUSION

18. Based on the above information, I respectfully submit that there is probable cause to believe that Elena MARKHAM has violated Title 18 U.S.C. 115(a)(1)(B).

FURTHER AFFIANT SAYETH NAUGHT.


Forrest Johnson
Special Agent
Federal Bureau of Investigation

Submitted by reliable electronic means, sworn to, signature attested telephonically per Fed. R. Crim P. 4.1. and probable cause found on this 9th day of November 2021.


HONORABLE PETER BRAY
United States Magistrate Judge